IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 149 of 1985

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

GUJARAT STATE ROAD TRANSPORT CORPORATION

Appearance:
MR Akil Qureshi with Mr MANISH R BHATT for Petitioner
SERVED BY RPAD - (N) for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE A.R.DAVE

Date of decision: 21/09/2000

ORAL JUDGEMENT

Per Dave,J.:-

At the instance of the revenue, the following two questions have been referred to this court for its opinion under the provisions of section 256 (1) of the Income tax Act,1961 (hereinafter referred to as `the Act'):-

(1) Whether on the facts and in the circumstances of the case, the appellate tribunal has been right in law in holding that the income of the assessee is exempt under section 11 of the Income tax Act, 1961?

(2) Whether on the facts and in the circumstances of the case, the appellate tribunal has not erred in law and on facts in not holding that even if the income of the assessee under section 11 of the Income tax Act, 1961 it will be exempt only to the extent it satisfies the conditions laid down u/s 11 of the Act?

As the said questions are interconnected, we give common answer to these questions. In respect of the very assessee, a similar question had been referred to this court in ITR No.51 of 1984. The said Reference was decided on 17.2.1997. It has been held in the said case that the case of the assessee is covered under the provisions of section 11 read with section 2 (15) of the Act. It has been held that as per the provisions of section 2 (15) of the Act, charitable purpose would also include any activity of general public utility which is not carried on with an intention of earning profit. We agree with the said view expressed in the case of the assessee. We are also fortified in our view by the decision of the Supreme court in the case of CIT vs. Andhra Pradesh State Road Transport Corporation, 159 ITR 1.

In the facts and circumstances stated above, and on the basis of the judgment delivered by this court, we answer the question in favour of the assessee and against the revenue.

Reference is accordingly disposed of with no order as to costs.

(D. M. Dharmadhikari, C.J.)

(A. R. Dave,J.)

parekh